

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**IN RE APPLICATION OF FORBES  
MEDIA LLC AND THOMAS  
BREWSTER TO UNSEAL COURT  
RECORDS**

The Honorable Mark R. Hornak  
Misc. Action No. 2:21-mc-00052

Related to: Case No. 15-880

**APPLICANTS' MOTION TO UNSEAL GOVERNMENT'S RESPONSE IN  
OPPOSITION TO APPLICATION TO UNSEAL**

Paula Knudsen Burke [PA 87607]  
pknudsen@rcfp.org  
Katie Townsend\*  
ktownsend@rcfp.org  
REPORTERS COMMITTEE FOR  
FREEDOM OF THE PRESS  
1156 15th St. NW, Suite 1020  
Washington, DC 20005  
Phone: 202.795.9300  
Facsimile: 202.795.9310

*\*Admitted pro hac vice*

*Counsel for Applicants Forbes Media  
LLC and Thomas Brewster*

Thomas Brewster and Forbes Media LLC (“Applicants” or “Petitioners”) respectfully move the Court for an order unsealing the Government’s Response in Opposition to Application to Unseal (ECF No. 16) (“Gov’t Response”).

### **BACKGROUND**

On February 16, 2021, the Government filed a Motion for Leave to File a Response Under Seal (ECF No. 11) followed by a redacted version of its Response in Opposition to Application to Unseal Court Records (ECF No. 12) on the public docket in the above-captioned matter. The following day, February 17, 2021, the Court issued an order provisionally granting the Government’s request to file its unredacted response under seal. ECF No. 13. The order, as requested by the Government, prohibited “Petitioners and their counsel . . . from disclosing, publicizing, disseminating, distributing, and/or sharing any information that is under seal in this matter without leave from the Court.” *Id.*

On February 19, 2021, the Government and Applicants filed a Joint Motion to Modify the Court’s Order on the Motion for Leave to File Under Seal. ECF No. 14. That Joint Motion informed the Court that “Applicants, as members of the news media, [sought] not to be bound by a protective order in this matter” and, as such, following meet-and-confer discussions between counsel for the Applicants and the Government, “the Parties agree that the Government’s Response may be filed *ex parte* and under seal at this time.” *Id.*, ¶ 2 (underlining original). The Joint

Motion further stated that “Applicants do not consent to, and will oppose, maintaining the Government’s Response under seal and *ex parte* indefinitely” and that “Applicants will ask the Court to address the propriety of continued sealing and *ex parte* filing of the Government’s Response simultaneously with its resolution of the merits of the Application.” *Id.* at ¶ 4. The Court granted that Motion on February 19, 2021. ECF No. 15.

### **ARGUMENT**

Applicants are informed and believe that the redacted, sealed portions of the Government’s Response that were submitted to the Court *ex parte* consist of information in filings currently under seal in Case No. 15-880; that matter is the subject of the Application to unseal in the above-captioned case. Accordingly, Applicants move to unseal the Government’s Response for the same substantive reasons and on the same grounds as set forth in their Memorandum of Points and Authorities in Support of Application to Unseal Court Records (ECF No. 2) and in their concurrently filed Reply in support of that Application (ECF No. 19). Because Case No. 15-880 should be unsealed, the redacted portions of the Government’s Response concerning that matter should likewise be unsealed.

Applicants therefore respectfully request that the Court enter an order unsealing the Government’s Response (ECF No. 16), which was filed with the Court *ex parte* and under seal on February 19, 2021.

Dated: February 23, 2021

Respectfully submitted,

s/ Paula Knudsen Burke

Paula Knudsen Burke [PA 87607]

pburke@rcfp.org

Katie Townsend\*

ktownsend@rcfp.org

REPORTERS COMMITTEE FOR

FREEDOM OF THE PRESS

1156 15th St. NW, Suite 1020

Washington, DC 20005

Phone: 202.795.9300

Facsimile: 202.795.9310

*\*Admitted pro hac vice*

*Counsel for Applicants Forbes Media LLC  
and Thomas Brewster*